

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREA HERNANDEZ,

Plaintiff

v.

Civ. No. 02-1399 RLP/RHS

ENCHANTMENT AUTO SALES, INC.

Defendant.

MEMORANDUM OPINION AND ORDER

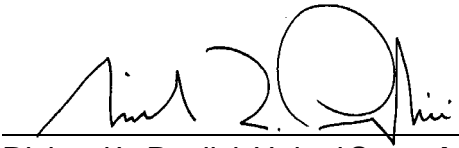
THIS MATTER comes before the court on Plaintiff's Motion for Supplemental Entry of Judgment. The court has entered judgment in favor of Plaintiff on the jury verdict, but has not awarded her damages pursuant to her Truth in Lending Act violation, which the Plaintiff now seeks to have awarded. The Motion will be granted.

Section 1640(a)(2)(A)(1) of the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1601 *et seq.* provides that an individual claimant is entitled to recover twice the amount of any finance charge, such amount not to exceed \$1,000. The statutory provisions impose strict liability on the creditor and the claimant is not required to show any actual damages. *Hinkle v. Rock Springs Nat'l Bank*, 538 F.2d 295, 297 (10th Cir. 1976). In this case the jury found a TILA violation and twice the amount of the finance charges exceed \$1,000; therefore, Plaintiff is entitled to an award of \$1,000, the defendant having cited no relevant case law to the contrary.¹

¹ In her complaint, Plaintiff did not request actual damages. See Complaint, ¶ 45. Defendant's citation to *Turner v. Beneficial Corp.*, 242 F.3d 1023 (11th Cir. 2001) (*en banc*) is therefore inapposite: that court held that when a plaintiff requests actual damages, detrimental reliance must be shown. Such is not the case here.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Supplemental Entry of Judgment [Doc. 90] is granted and a supplemental judgment will be entered in favor of Plaintiff and against Defendant in the amount of \$1,000.00.

IT IS SO ORDERED.


Richard L. Puglisi, United States Magistrate Judge
(sitting by designation)

For the Plaintiff: Richard Feferman, Esq.

For the Defendant: Michael Danoff, Esq.